

who are duly authorized to practice law in the district and who are members of the same political party as the vacating judge; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence. If the district court judge was not elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district court district and who are duly authorized to practice law in the district; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence. Within 60 days after the district bar submits nominations for a vacancy, the Governor shall appoint to fill the vacancy. If the Governor fails to appoint a district bar nominee within 60 days, then the district bar nominee who received the highest number of votes from the district bar shall fill the vacancy. If the district bar fails to submit nominations within 30 days from the date the vacancy occurs, the Governor may appoint to fill the vacancy without waiting for nominations."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of April, 2011.

Became law upon approval of the Governor at 10:30 a.m. on the 7th day of April, 2011.

Session Law 2011-29

S.B. 248

AN ACT TO UPDATE CERTAIN TERMINOLOGY IN REFERENCE TO PERSONS WITH DISABILITIES, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-255 reads as rewritten:

"§ 1-255. Who may apply for a declaration.

Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, ~~an infant, lunatic, or insolvent,~~ a minor, an incompetent person, or an insolvent person, may have a declaration of rights or legal relations in respect thereto:

- (1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; or
- (2) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or
- (3) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.
- (4) To determine the apportionment of the federal estate tax, interest and penalties under the provisions of Article 27 of Chapter 28A."

SECTION 2. Rule 601 of the North Carolina Rules of Evidence, as contained in G.S. 8C-1, reads as rewritten:

"Rule 601. General rule of competency; disqualification of witness.

(a) General rule. – Every person is competent to be a witness except as otherwise provided in these rules.

(b) Disqualification of witness in general. – A person is disqualified to testify as a witness when the court determines that ~~he-the person~~ is (1) incapable of expressing himself or herself concerning the matter as to be understood, either directly or through interpretation by one who can understand ~~him,him or her,~~ or (2) incapable of understanding the duty of a witness to tell the truth.